

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN ASSEMBLY JUNE 10, 2004

SENATE BILL

No. 492

Introduced by Senator Ducheny

February 20, 2003

An act to amend Section 65585.1 of, ~~and to amend and repeal Section 65585.2 of,~~ the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 492, as amended, Ducheny. Housing: funds.

The existing Housing and Emergency Shelter Trust Fund Act of 2002 prescribes the allocation of bond money deposited in the Housing and Emergency Shelter Trust Fund by, among other agencies, the Department of Housing and Community Development. Existing law ~~also makes~~ *authorizes* any city or county within the jurisdiction of the San Diego Association of Governments ~~that has a, until June 30, 2009, to self-certify its~~ general plan housing element ~~that has been self-certified,~~ as prescribed, *and makes those cities and counties that are self-certified* fully eligible, *until January 1, 2010,* to participate in any program created by, or receiving funds through, the Housing and Emergency Shelter Trust Fund Act of 2002 in an identical manner and to the same degree as those local jurisdictions deemed in substantial compliance with the requirements relating to housing elements that are reviewed by the department rather than being self-certified. ~~The authority for that self-certification by cities and counties within the jurisdiction of the San Diego Association of Governments is to become inoperative on June 30, 2009.~~

This bill would ~~repeal that provision relating to funding eligibility for self-certified jurisdictions as of January 1, 2011, unless a later enacted statute that is enacted before that date deletes or extends that date, and would extend the authority for that self-certification until June 30, 2010.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65585.1 of the Government Code is
2 amended to read:
3 65585.1. (a) The San Diego Association of Governments
4 (SANDAG), if it approves a resolution agreeing to participate in
5 the self-certification process, and in consultation with the cities
6 and county within its jurisdiction, its housing element advisory
7 committee, and the department, shall work with a qualified
8 consultant to determine the maximum number of housing units
9 that can be constructed, acquired, rehabilitated, and preserved as
10 defined in paragraph (11) of subdivision (e) of Section 33334.2 of
11 the Health and Safety Code, and the maximum number of units or
12 households that can be provided with rental or ownership
13 assistance, by each jurisdiction during the third and fourth housing
14 element cycles to meet the existing and future housing needs for
15 low- and very low income households as defined in Sections
16 50079.5, 50093, and 50105 of the Health and Safety Code, and
17 extremely low income households. The methodology for
18 determining the maximum number of housing units that can be
19 provided shall include a recognition of financial resources and
20 regulatory measures that local jurisdictions can use to provide
21 additional affordable lower income housing. This process is
22 intended to identify the available resources that can be used to
23 determine the maximum number of housing units each jurisdiction
24 can provide. The process acknowledges that the need to produce
25 housing for low-, very low, and extremely low income households
26 may exceed available resources. The department and SANDAG,
27 with input from its housing element advisory committee, the
28 consultant, and local jurisdictions, shall agree upon definitions for
29 extremely low income households and their affordable housing
30 costs, the methodology for the determination of the maximum



number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph (4) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant to this section.

(1) The “housing element advisory committee” should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the “maximum number of housing units” that the jurisdiction can provide assumes that the needs for low-, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region’s population.

(3) A “qualified consultant” for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction’s adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

1 In determining whether a jurisdiction has met its fair share, the
2 jurisdiction may count each additional lower income household
3 provided with affordable housing costs. Affordable housing costs
4 are defined in Section 6918 for renters, and in Section 6925 for
5 purchasers, of Title 25 of the California Code of Regulations, and
6 in Sections 50052.5 and 50053 of the Health and Safety Code, or
7 by the applicable funding source or program.

8 (3) For subsequent housing element revisions, pursuant to
9 Section 65588, the jurisdiction has provided the maximum
10 number of housing units as determined pursuant to subdivision (a),
11 within the previous planning period.

12 (A) The additional units provided at affordable housing costs
13 as defined in paragraph (2) in satisfaction of a jurisdiction's
14 maximum number of housing units shall be provided by one or
15 more of the following means:

16 (i) New construction.

17 (ii) Acquisition.

18 (iii) Rehabilitation.

19 (iv) Rental or ownership assistance.

20 (v) Preservation of the availability to lower income households
21 of affordable housing units in developments which are assisted,
22 subsidized, or restricted by a public entity and which are
23 threatened with imminent conversion to market rate housing.

24 (B) The additional affordable units shall be provided in
25 approximate proportion to the needs defined in paragraph (2) of
26 subdivision (a).

27 (4) The city or county provides a statement regarding how its
28 adopted housing element or amendment addresses the dispersion
29 of lower income housing within its jurisdiction, documenting that
30 additional affordable housing opportunities will not be developed
31 only in areas where concentrations of lower income households
32 already exist, taking into account the availability of necessary
33 public facilities and infrastructure.

34 (5) No local government actions or policies prevent the
35 development of the identified sites pursuant to Section 65583, or
36 accommodation of the jurisdiction's share of the total regional
37 housing need, pursuant to Section 65584.

38 (d) When a city or county within the jurisdiction of the San
39 Diego Association of Governments duly adopts a self-certification

of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category, the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 2.—Section 65585.2 of the Government Code is amended to read:~~

~~65585.2.—(a) Notwithstanding any other provision of law, any city or county that has a housing element that has been self-certified pursuant to the requirements of Section 65585.1 shall be considered to be fully eligible to participate in any program created by, or receiving funds through, the Housing and Emergency Shelter Trust Fund Act of 2002 (Part 11 (commencing with Section 53500) of Division 31 of the Health and Safety Code) in an identical manner and to the same degree, as those local jurisdictions deemed in substantial compliance with the requirements of this article by the Department of Housing and Community Development pursuant to Section 65585.~~

~~(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute,~~

1 that is enacted before January 1, 2011, deletes or extends that date.
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